

*Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.*

## Proposed Rulemakings

### WORK RELEASE

The DEPARTMENT OF CORRECTIONS proposed amendments to the Part titled Work Release Programs (20 IAC 455; 45 Ill Reg 15174) concerning the eligibility of persons in DOC custody to transfer to work release programs. An individual in custody (currently, "committed person") may be considered for work release placement if that person has not had any documented involvement in organized crime within the past 5 years or convictions for large scale narcotics trafficking within the past 10 years (current rule permanently disqualifies individuals involved in organized crime or narcotics trafficking). To qualify for placement in a work release program, the individual must have 2 to 30 months (currently, 2 months to 2 years) remaining in his or her sentence for a pre-release assignment and be within 3 years

### COVID-19 ACTIONS

Executive Orders of the Governor concerning the COVID-19 public health emergency can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

of release for a temporary work assignment; be classified as minimum security; complete a risk and needs assessment; have no record of escape attempts and no active orders of protection; and receive medical and mental health clearance within 30 days prior to a pre-release placement. All outstanding felony warrants or criminal detainers must be reviewed on a case by case basis

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## Emergency Rulemakings

### SCHOOL RECOGNITION

The STATE BOARD OF EDUCATION adopted emergency amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 45 Ill Reg 15344) and Voluntary Registration and Recognition of Nonpublic Schools (23 IAC 425; 45 Ill Reg 15362), both effective 11/22/21, modifying previous emergency rules that were effective 10/28/21 for the remainder of their 150-day term. These emergency amendments clarify that public schools, school districts and non-public schools can be placed on probation only after a conference between the district/school and SBE staff has taken place. The amendments also remove provisions requiring SBE to make its final decision on non-recognition of a school within 14

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**ADOPTED RULES:** Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.  
**PROPOSED RULES:** Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.  
**PEREMPTORY RULES:** Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.  
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.  
**QUESTIONS/COMMENTS:** Submit mail, email or phone calls to the agency personnel listed below each summary.  
**RULE TEXT:** Available on the Secretary of State ([www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://www.ilga.gov)) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

# Adopted Rule

## STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted amendments to Minority Teachers of Illinois (MTI) Scholarship Program (23 IAC 2763; 45 Ill Reg 10269), effective 1/1/22, implementing provisions of PA 101-654 designed to increase access to and awareness of the MTI program (which provides scholarships to minority students enrolled in educator preparation programs, in return for the recipient's commitment to teach at a school with a substantial percentage of minority students). The rulemaking increases the maximum annual scholarship of \$5,000 to \$7,500 when fiscal year appropriations for the program are \$2.85 million or more. If appropriated MTI funds are not sufficient to provide scholarships to all qualified students, first priority will be given to students who received an MTI scholarship the previous academic year. Of the remaining funds, at least 35% (formerly, 30%) will be awarded to male students; if ISAC does not receive enough applications from

male students to meet that figure, a portion of these funds may be awarded to qualified female applicants. Then, either 10% or 30% of remaining funds (depending on the size of the total appropriation) will be reserved for qualified bilingual minority applicants, with priority given to those who are enrolled in an educator preparation program for bilingual/bicultural education. Any funds remaining after all priority applicants have been served may be awarded to other qualified applicants. If scholarships cannot be provided to all qualified applicants in any of the priority categories, awards within those categories will be based first on financial need, then on the dates that completed applications were received (since 1<sup>st</sup> Notice, ISAC has set a March 31 cutoff date for applicants seeking priority consideration for MTI scholarships in the subsequent academic year), and finally on whether the applicant is enrolled at or above the junior level. Qualified minority bilingual applicants may fulfill their teaching obligation in a transitional bilingual education program or at a school

in which at least 20 English learner students in the same language classifications are enrolled. If the MTI Program does not expend at least 90% of its appropriated funds for 3 consecutive years and ISAC fails to receive enough applications to meet the targets for groups identified for reserve funds, ISAC may use up to 3% of appropriated funds for the next 3 fiscal years to increase awareness of the MTI program and for the recruitment of Black male students. Higher education institutions participating in the MTI Program must also host an annual information session about the program for teacher candidates of color and require that scholarship recipients meet with an academic advisor at least once per academic year to facilitate on-time completion of the student's educator preparation program.

*Questions/requests for copies: Jackie Eckley, ISAC, 500 W. Monroe St., 3rd Floor, Springfield IL 62704, 217/782/5161, [jackie.eckley@illinois.gov](mailto:jackie.eckley@illinois.gov)*

## Emergency Rulemakings

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days after a hearing has been held and the hearing officer has made a recommendation. (SBE states that removing the time limit will allow it more time to consider evidence and statements presented during the hearing process.)

*Questions/requests for copies of the 2 SBE emergency rules: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, (312)783-2757, [rules@isbe.net](mailto:rules@isbe.net)*

## HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH adopted an emergency amendment to Hospital Licensing

Requirements (77 IAC 250; 45 Ill Reg 15375) effective 11/17/21 for a maximum of 150 days, renewing provisions of a previous emergency rule that expired on 11/16/21. This emergency rule allows licensed hospitals to increase bed capacity and/or re-allocate bed designations between clinical

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# Proposed Rulemakings

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prior to placement; however, placement shall not be denied based on civil immigration detainers or warrants.

*Questions/requests for copies/ comments through 1/18/22: Kess Roberson, DOC, 1301 Concordia Court, P. O. Box 19277, Springfield, IL 627949277, (217) 558-2200, ext. 6506, [Kess.Roberson@illinois.gov](mailto:Kess.Roberson@illinois.gov).*

## HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Hospital Licensing Requirements (77 IAC 250; 45 Ill Reg 15183) implementing Public Acts 101-0091 and 101-0445. The rulemaking prohibits hospitals from discharging or referring a patient to an unlicensed, unregistered or uncertified facility and requires hospitals to comply with information-posting requirements of the Medical Patient Rights Act. The rulemaking also requires hospitals to have proper instruments available for taking a pregnant woman's blood pressure and requires proof of identity with a government issued ID and a signature before discharging a newborn to anyone other than the biological mother. If a newborn is discharged separately from the biological mother, the mother must also provide proof of identity before the newborn is discharged.

## ■ LONG TERM CARE

DPH proposed amendments to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 45 Ill Reg 15216) implementing statutory requirements for skilled nursing facilities to designate an infection prevention and control professional and implement policies for control of infections and communicable diseases. Training and minimum experience requirements and staffing requirements for infection preventionists are established in this rulemaking. Infection prevention and control requirements regarding outbreaks of communicable diseases, including testing plans and response strategies to address infectious disease outbreaks, are added. The rulemaking also incorporates new guidance documents from the Centers for Disease Control and Prevention and the Occupational Safety and Health Administration concerning infection prevention and control, and requires facilities to maintain a confidential record of health-related information, including vaccinations and required test results, for their employees. Nursing homes are affected by this rulemaking.

DPH also proposed amendments to Sheltered Care Facilities Code (77 IAC 330; 45 Ill Reg 15250) and Illinois Veterans' Homes Code (77 IAC 340; 45 Ill Reg 15270) that require these facilities to adopt policies for regular testing of water systems for Legionella bacteria (which cause Legionnaire's

Disease). These policies must specify how frequently testing will be conducted; include risk assessment and testing protocols; include a system for documenting test results and corrective actions; and be based on national standards established by the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) for preventing the growth or spread of Legionella in building water systems.

*Questions/requests for copies/ comments on the 4 DPH rulemakings through 1/18/22: Tracey Trigillo, DPH, 524 S. 2nd St., 6th Fl., Springfield IL 62701, 217/782-1159, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)*

## DEFERRED COMPENSATION

The STATE BOARD OF INVESTMENT proposed amendments to State (of Illinois) Employees' Deferred Compensation Plan (80 IAC 2700; 45 Ill Reg 15285) adding provisions for automatic enrollment of certain State employees into the Deferred Compensation Plan (Plan), as provided for by PA 101-277. Newly hired State employees who qualify for automatic enrollment have 30 days after starting employment to opt out of the Plan and another 90 days to withdraw from the Plan after enrollment (in which case all contributions and earnings will be refunded to the employee). Those who take no action will have 3% of

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## Emergency Rulemakings

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services (e.g., to/from an Intensive Care Unit) if necessary to meet extraordinary needs due to the COVID-19 pandemic. Hospitals may increase or re-allocate beds, or take previously increased bed capacity out of circulation, without prior notification to DPH provided DPH is notified within 30 days after the action.

### SEXUAL ASSAULT

DPH also adopted emergency amendments to Sexual Assault Survivors Emergency Treatment Code (77 IAC 545; 45 Ill Reg 15387) effective 11/28/21 through 12/31/21. This emergency rule (which replaces an emergency rule that expired on 11/27/21) implements provisions of PA 102-22 that allow federally qualified health centers (FQHCs) to file

sexual assault treatment plans with DPH and provide forensic medical and treatment services to sexual assault survivors through 12/31/21.

*Questions/requests for copies of the 2 DPH emergency rules: Tracey Trigillo, DPH, 524 S. 2nd St., 6th Fl., Springfield IL 62701, 217/782-1159, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)*

## Proposed Rulemakings

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their pre-tax compensation for each pay period deposited in their Plan account. Enrollees may choose to have deferrals made before taxes or pay tax on their deferrals (Roth basis). The minimum deferral amount per pay period is \$10 or 1% of compensation (currently \$20 per month). Forms necessary to process enrollment changes will be provided by the Department of Central Management Services or the official Plan Recordkeeper (currently, T. Rowe Price) and can be processed by paper, phone or online. Allowable reasons for a hardship distribution now include losses and expenses, including loss of income, due to a federally declared disaster in an area where the employee resides or is employed and where the Federal Emergency Management Agency is providing individual disaster assistance. The rulemaking also lists attributes to be considered by SBI in selecting Plan investment options; requires the State agency

that processes the employee's paychecks (Pay Agency) to accurately process salary deferrals and revocations, suspend deferrals when the employee reaches the calendar year limit, and return excess amounts deferred to the employee; and requires the Recordkeeper to accept and store beneficiary designations made on or after 6/15/20. In accordance with the federal CARES Act, SBI will not make required minimum distributions to participants who would otherwise have been required to take a minimum distribution in 2020. The age at which distributions must begin is raised to 72 for individuals born on or after 7/1/1949 (70½ for individuals born before that date). Individuals who qualify under CARES for Coronavirus Related Distributions may request distributions totaling up to \$100,000 for the period 5/28/20 through 12/28/20 and have up to 3 years to repay all or part of this distribution. Persons who have taken loans from their Plan

account may also defer payments due between 5/28/20 and 12/31/20 (interest will continue to accrue on the deferred payments) if they qualify under CARES. Finally, the rulemaking adds new procedures for beneficiary distributions, including distributions to non-designated beneficiaries (entities that are not natural persons, such as trusts and estates) beginning 1/1/22, in accordance with recent federal changes contained in the Setting Every Community Up for Retirement Enhancement Act (the SECURE Act).

*Questions/requests for copies/ comments through 1/18/22: Mary Cahill, SBI, 180 N. LaSalle St., Suite 2015, Chicago IL 60601, 312/793-5712, [mcahill@isbinvestment.com](mailto:mcahill@isbinvestment.com)*



## Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period, and will be published in next week's *Illinois Register*. The IEPA rulemaking and the State Treasurer amendments to 2 IAC 651 will be considered at the December 14, 2021, meeting to be held in Chicago. The remaining rulemakings will be considered at the January 11, 2022, meeting to be held in Springfield. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

### IL ENVIRONMENTAL PROTECTION AGENCY

Accreditation of Environmental Laboratories (35 IAC 186; 45 Ill Reg 10689) proposed 8/20/21

### OFFICE OF THE STATE TREASURER

Access to Records of the Office of the Illinois State Treasurer (2 IAC 651; 45 Ill Reg 12466) proposed 10/8/21

Secure Choice Savings Program (74 IAC 721; 45 Ill Reg 12499) proposed 10/8/21

### IL STATE POLICE

Use of Force Reporting (20 IAC 1244; 45 Ill Reg 9393) proposed 7/23/21

### STATE POLICE MERIT BOARD

Procedures of the Department of State Police Merit Board (80 IAC 150; 45 Ill Reg 11555) proposed 9/17/21

## Joint Committee on Administrative Rules

<b>Senator Bill Cunningham, <i>co-chair</i></b>	<b>Representative Tom Demmer</b>
<b>Senator John F. Curran</b>	<b>Representative Michael Halpin</b>
<b>Senator Donald DeWitte</b>	<b>Representative Frances Ann Hurley</b>
<b>Senator Kimberly Lightford</b>	<b>Representative Steven Reick</b>
<b>Senator Tony Muñoz</b>	<b>Representative Curtis Tarver, II</b>
<b>Senator Sue Rezin</b>	<b>Representative Keith Wheeler, <i>co-chair</i></b>

**Kim Schultz**  
**Executive Director**